IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16/09/2002

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THE HONOURABLE MR.JUSTICE P.D.DINAKARAN

W.P.No.35541 of 2002

Tamilnadu Hand-Cartmen and
Cycle Rickshaw Kerosene
Retail Progress Sangam
rep. by its Secretary
T.Umapathy, 159, Dr.Besant
Road, Triplicane, Chennai-5.
(having registration No.33/85) .. Petitioner

-Vs-

1. The Government of Tamil Nadu
rep. its Secretary to
Government, Co-operation, Food
and Consumer Protection Dept.,
Fort St.George, Chennai-9.

2. The Commissioner of Civil Supplies
and Consumer Protection
Chepauk, Chennai-5. .. Respondents

PRAYER: This writ petition is filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus as stated within.

For Petitioner : Mr.D.Peter Francis

For Respondents : Mr.D.Krishnakumar,
Spl. Govt. Pleader for R1
Mr.V.Viswanathan for R2

:ORDER

Heard.

2. The members of the petitioner-sangam are handcartmen, who were granted certificate of registration for retail sale of kerosene through their hand-cart under the provisions of the Tamil Nadu Kerosene Control (Regulation of Trade) Order, 1973.

3. The main grievance of the petitioner-sangam is that the respondents are refusing to transfer the certificate of registration after the

death of the original holder of the certificate of registration.

4. Mr.D.Peter Francis, learned counsel for the petitioner-sangam, placing reliance on the decision of the Division Bench of this Court dated 22.8.2002 in W.A.No.1305 to 1309 of 2001, contends that the legal heirs of the holders of certificate of registration issued to the handcartmen under the provisions of the Tamil Nadu Kerosene Control (Regulation of Trade) Order, 1973 are entitled for transfer of the certificate of registration.

5. Mr.D.Krishna Kumar, learned Special Government Pleader taking notice on behalf of the respondents, on the directions of this Court, contends that the grievance referred to by the petitioner-sangam is not common in nature and the same is to be tested in the light of the facts and circumstances of individual cases, as to (i) whether the parties aggrieved are the legal heirs of the holders of the certificate of registration; (ii) whether the parties aggrieved have got no objection from the other legal heirs; and (iii) whether the parties aggrieved, as legal heirs of the original holder of the certificate of registration, applied in time, during the license period, etc., and therefore contends that the the petitioner-Sangam can neither agitate for or on behalf of all the members of the sangam nor seek the relief as prayed for.

6. I have given careful consideration to the submissions of both sides.

7. By order dated 22.8.2002 in W.A.No.1305 to 1309 of 2001, the Division Bench of this Court held that the legal heirs of the holder of certificate of registration, who died during the period of registration are entitled for transfer of certificate of registration to vend kerosene to the domestic consumers through handcart and for renewal thereafter, as permissible under the relevant Government orders and circulars issued thereon, in order to uplift the members belonging to the poor family of the demised holder of the certificate of registration. Therefore, the benefit of the said decision, in my considered opinion, cannot be extended to the members of the petitioner-sangam as a whole, as it is matter to be considered on merits, individually, as rightly pointed out by Mr.D.Krishna Kumar, learned Special Government Pleader.

8. If that be so, suffice it to permit the individual members of the petitioner-sangam to make appropriate representation to the second respondent, in the light of relevant circulars and the decision of the Division Bench of this Court 22.8.2002 in W.A.No.1305 to 1309 of 200 1, and the second respondent is consequently directed to consider the case of the members of the petitioner-sangam individually for transfer of certificate of registration, on merits, and pass appropriate orders within sixty days from the date of receipt of such representation.

This writ petition is ordered accordingly. No costs.

16.9.2002
Index :Yes

Internet:Yes

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To:

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rep. its Secretary to
Government, Co-operation, Food
and Consumer Protection Dept.,
Fort St.George, Chennai-9.

2. The Commissioner of Civil Supplies
and Consumer Protection
Chepauk, Chennai-5.
Sasi

P.D.DINAKARAN,J.